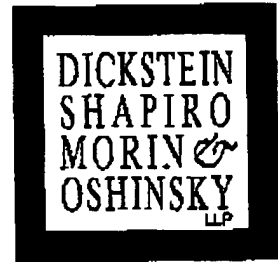


**FAX TRANSMISSION****DATE:** December 5, 2005**CLIENT NO.:** A8319.0013**MESSAGE TO:** Examiner Mills**COMPANY:** United States Patent and Trademark Office**FAX NUMBER:** (571) 273-1309**PHONE:** \_\_\_\_\_**FROM:** Mark Thronson**TIMEKEEPER NO.:** 0242**PHONE:** (202) 775-4842**PAGES (Including Cover Sheet):** 2 **HARD COPY TO FOLLOW:** YES X **NO****SENT BY:** \_\_\_\_\_**DATE/TIME:** \_\_\_\_\_**MESSAGE:****Re:** U.S. Patent Application No.: 10/806,455Title: HYDROGEN PRODUCING APPARATUS AND POWER GENERATING  
SYSTEM USING ITFiling Date: March 23, 2004**BEST AVAILABLE COPY****Dear Examiner Mills:**

As you requested, enclosed please find the Terminal Disclaimer signed by an attorney of record in the application. Please file the enclosed Terminal Disclaimer in the above-mentioned application.

Very truly yours,

Mark J. Thronson

If your receipt of this transmission is in error, please notify this firm immediately by collect call to our Facsimile Department at 202-861-9106, and send the original transmission to us by return mail at the address below.

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PTO/SB/26 (09-04)

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

A8319.0013/P013-A

In re Application of: Kazutoshi Higashiyama et al.

Application No.: 10/806,455-Conf. #1223

Filed: March 23, 2004

For: HYDROGEN PRODUCING APPARATUS AND POWER GENERATING SYSTEM USING IT

The owner\*, Hitachi, Ltd. and Babcock-Hitachi Kabushiki Kaisha, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 6,890,673 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;

is held unenforceable;

is found invalid by a court of competent jurisdiction;

is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;

has all claims canceled by a reexamination certificate;

is reissued; or

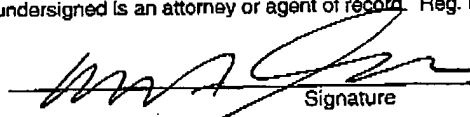
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 33,082



Signature

December 5, 2005

Date

Mark J. Thronson

Typed or printed name

(202) 775-4742

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.